



Entered on Docket
June 26, 2007

Hon. Linda B. Riegle
United States Bankruptcy Judge

LEWIS AND ROCA LLP

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Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEVADA

In re:
USA COMMERCIAL MORTGAGE
COMPANY,
USA CAPITAL REALTY ADVISORS,
LLC,
USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,
USA CAPITAL FIRST TRUST DEED
FUND, LLC,
USA SECURITIES, LLC,
Debtors.

) Case No. BK-S-06-10725-LBR
) Case No. BK-S-06-10726-LBR
) Case No. BK-S-06-10727-LBR
) Case No. BK-S-06-10728-LBR
) Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No. BK-S-06-10725 LBR

Date: April 26, 2007
Time: 9:30 a.m

Affecting:

☐ All Cases

or Only:

- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

ORDER SUSTAINING OMNIBUS OBJECTION OF THE USACM LIQUIDATING TRUST TO COMMISSION CLAIMS ASSERTING PRIORITY STATUS

The USACM Liquidating Trust (the "USACM Trust") filed its Omnibus Objection to Commission Claims Asserting Priority Status [DE 3255] (the "Objection") on March 23, 2007. Appropriate notice of the Objection was given. Responses to the Objection were filed with this Court as follows:

- Response filed by Stewart Baskin [DE 3430] pertaining to Claim No. 10725-01792. This matter was continued for hearing on July 27, 2007 at 9:30 a.m.

- Response filed by Debt Acquisition Company of America V, LLC [DE 3492, 3493], assignees of the following claims:

- a. Pompeo J. Lombardi [Declaration at DE 3496], Claim No. 10725-00780
- b. Dalton Maffett, Claim No. 10725-00904
- c. Oliver Puhr [Declaration at DE 3497], Claim No. 10725-00783
- d. Tom Stewart [Declaration at DE 3495], Claim No. 10725-00779; and
- e. Janet Szabo [Declaration at DE 3524], Claim No. 10725-00781.

This matter was continued for hearing on July 27, 2007 at 9:30 a.m.

- Response filed by Michael P. Mollo [DE 3337] pertaining to Claim Nos. 10725-00366 and 10725-00371. This matter was continued for hearing on July 27, 2007 at 9:30 a.m.

- No other responses were filed with this Court. The Objection came before the Court for hearing on April 26, 2007 at 9:30 a.m. Good cause appearing, it is

ORDERED:

- Sustaining the USACM Trust's Omnibus Objection to Commission Claims Asserting Priority Status listed on Exhibit A attached;

- Reclassifying the Proofs of Claim listed on Exhibit A attached as general unsecured claims; and

• Reserving the right of any party in interest, including the USACM Trust, to further object to any and all claims listed on Exhibit A attached as unsecured claims or otherwise, whether or not the subject of this Objection.

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PREPARED AND SUBMITTED:

LEWIS AND ROCA LLP

By: /s/ RC (#0006593)
Susan M. Freeman
Rob Charles
Attorneys for USACM Liquidating Trust

APPROVED/DISAPPROVED

Stewart Baskin

APPROVED/DISAPPROVED

Michael P. Mollo

APPROVED/DISAPPROVED

KIRBY & MCGUINN, APC

By: /s/ Dean T. Kirby
Dean T. Kirby, CA 090114
Attorneys for Debt Acquisition Company of America V, LLC, and Assignees of the claims of Pompeo J. Lombardi, Dalton Maffett, Oliver Puhr, Tom Stewart and Janet Szabo

• Reserving the right of any party in interest, including the USACM Trust, to further object to any and all claims listed on Exhibit A attached as unsecured claims or otherwise, whether or not the subject of this Objection.

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PREPARED AND SUBMITTED:

LEWIS AND ROCA LLP

By: /s/ RC (#0006593)
Susan M. Freeman
Rob Charles
Attorneys for USACM Liquidating Trust

APPROVED/DISAPPROVED

Stewart Baskin

APPROVED/DISAPPROVED

M. P. Mollo
Michael P. Mollo

APPROVED/DISAPPROVED

KIRBY & MCGUINN, APC

By: Dean T. Kirby
Attorneys for Debt Acquisition Company of America V, LLC, and Assignees of the claims of Pompeo J. Lombardi, Dalton Maffett, Oliver Puhr, Tom Stewart and Janet Szabo

CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021

In accordance with Local Rule 9021, the undersigned certifies:

- ☒ The Court waived the requirements of LR 9021.
- ☐ I have delivered a copy of this proposed order to all attorneys and unrepresented parties who have appeared at the hearing regarding this matter and/or who filed a written objection and each has:
 - ☒ approved the form of this order;
 - ☐ waived the right to review the order;
 - ☐ failed to file and serve papers in accordance with LR 9021(c); and/or
 - ☒ failed to sign and return this proposed order within five (5) business days in accordance with LR 9021(b).
- ☐ I have delivered a copy of this proposed order to all attorneys and unrepresented parties who appeared at the hearing regarding this matter and/or who filed a written objection and all have either approved the form of this order, waived the right to review the order, failed to file and serve papers in accordance with LR 9021(c) and the following have disapproved the form of the order:
- ☐ No opposition was filed to the motion and no other party or counsel appeared at the hearing (none required).

LEWIS AND ROCA LLP

By: /s/ RC (#0006593)
Susan M. Freeman
Rob Charles
Attorneys for USACM Liquidating Trust

Exhibit A
USA COMMERCIAL MORTGAGE

Objection to Commission Claims Asserting Priority Status - Reclassify Entire Claim Amount as a General Unsecured Claim

	<u>Claimant</u>	<u>Proof of Claim Number</u>	<u>Date Claim Filed</u>	<u>Proof of Claim Amount</u>	<u>Proof of Claim Priority Asserted</u>	<u>Proposed Treatment/Comments Objection</u>
1	Baskin, Stewart 2625 N Green Valley Pkwy Ste 125 Henderson, NV 89014	10725-01792	12/13/2006	\$3,500.00	P	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans. Claim was also filed after November 13, 2006 Bar Date.
2	Debt Acquisition Comp Of America V LLC 1565 Hotel Cir South Ste 310 San Diego, CA 92108	10725-00779	10/27/2006	\$37,037.93	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
3	Debt Acquisition Comp Of America V LLC 1565 Hotel Cir South Ste 310 San Diego, CA 92108	10725-00780	10/27/2006	\$43,017.52	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
4	Debt Acquisition Comp Of America V LLC 1565 Hotel Cir South Ste 310 San Diego, CA 92108	10725-00781	10/27/2006	\$25,107.97	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
5	Debt Acquisition Comp Of America V LLC 1565 Hotel Cir South Ste 310 San Diego, CA 92108	10725-00783	10/27/2006	\$31,762.23	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
6	Debt Acquisition Comp Of America V LLC 1565 Hotel Cir South Ste 310 San Diego, CA 92108	10725-00904	10/27/2006	\$20,067.97	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
7	Esteves, Douglas A 4500 S Lakeshore St # 322 Tempe, AZ 85282	10725-00251	9/26/2006	\$6,468.75	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.

Objection to Commission
Claims Asserting Priority

EXHIBIT A

8	Lee, Devin 7493 Big Cottonwood Ct. Las Vegas, NV 89123	10725-00944	11/2/2006	\$13,875.00	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
9	Mello, Mike 316 S Broadway #B Redondo Beach, CA 90277-3709	10725-00366	10/2/2006	\$16,587.50	P, U	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.
10	Mello, Mike 316 S Broadway #B Redondo Beach, CA 90277-3709	10725-00371	10/2/2006	Blank	P	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans. Proof of claim is also unsigned
11	Morgan, Stephanie Amber 3014 W William Cannon Apt 1538 Austin, TX 78745	10725-00964	11/2/2006	\$10,000.00	P	Reclassify claim as a general unsecured claim. Claim is for commission by broker who signed up lenders for non-performing loans.

Objection to Commission
Claims Asserting Priority

EXHIBIT A